

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

United States of America,

Plaintiff,

vs.

David Thomas McCracken, a/k/a David
Thomas McCrackin,

Defendant.

**ORDER
ADOPTING IN PART
REPORT AND RECOMMENDATION**

Criminal No. 3:03-cr-22

Before the Court is an Petition alleging three violations of Defendant's conditions of supervised release. (Doc. #27).

The Court has received a Report and Recommendation (Doc. #40) from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Defendant's term of supervised release be modified. The parties waived their right to object to the Report and Recommendation.

The Court has reviewed the Report and Recommendation, along with the entire file, and concludes that the Magistrate Judge's position is correct. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety, with the exception of a textual correction to the third modified condition of supervised release. The modification as stated in the Report and Recommendation implies the previous conditions of supervised release do not apply to Defendant while housed at Robinson Recovery Center ("RRC"). On the contrary, the previous conditions of supervised release remain in effect throughout and after his residence at RRC.

For the reasons set forth in the Report and Recommendation, the Court **ORDERS**

modification of Defendants supervised release conditions as follows:

- (1) McCracken must reside at Robinson Recovery Center for a period of time up to six months and shall participate in the facility's program and abide by its rules and regulations. After four months, the supervising probation officer will review McCracken's status and progress with the staff at Robinson Recovery Center and report to the court.
- (2) McCracken shall not be permitted to participate in work release until and unless the staff at Robinson Recovery Center determines work release is appropriate.
- (3) All previous conditions of supervised release shall remain in effect.
- (4) As an additional condition of release, McCracken shall submit his person, residence, workplace, vehicle, property and/or possessions to a search conducted by a United States Probation Officer, or other law enforcement officer, at a reasonable time and in a reasonable manner based upon reasonable suspicion of contraband or evidence of a violation of supervision. Failure to submit to a search may be grounds for revocation. The officer shall notify any occupants that the premises may be subject to searches pursuant to this condition. A probation officer may invoke a search with or without the assistance of other law enforcement officers.

IT IS SO ORDERED.

Dated this 17th day of January, 2007.

/s/ Ralph R. Erickson
Ralph R. Erickson, District Judge
United States District Court